



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2013-0681; FRL-9909-07-Region-9]

**Approval and Promulgation of State Implementation Plans; Hawaii;
Infrastructure Requirements for the 2008 Lead National Ambient
Air Quality Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Environmental Protection Agency (EPA) is approving elements of a State Implementation Plan (SIP) revision submitted by the State of Hawaii on February 13, 2013, pursuant to the requirements of the Clean Air Act (CAA or the Act) for the 2008 Lead (Pb) national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA.

DATES: Effective Date: This final rule is effective on [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA-R09-OAR-2013-0681. The index

to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Dawn Richmond, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 972-3207, richmond.dawn@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms "we," "us," and "our" refer to EPA.

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I. Background

On October 23, 2013 (78 FR 63145), EPA proposed to approve elements of the *Hawaii State Implementation Plan Revision for 2008 Lead National Ambient Air Quality Standard, Clean Air Act §110(a)(1) and (2)* (February 13, 2013) ("Hawaii Pb Infrastructure SIP"), submitted by the State of Hawaii on February 13, 2013. In our October 23, 2013 proposed rule, we also proposed to approve Hawaii Administrative Rules (HAR) section 11-60.1-90 ("Permit content") into the Hawaii SIP.

Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA. The rationale supporting EPA's action, including the scope of infrastructure SIPs in general, is explained in that Notice of Proposed Rulemaking (NPR) and the associated technical support document (TSD) and will not be restated here. The TSD is available online at <http://www.regulations.gov>, Docket ID number EPA-R09-OAR-2013-0681. No public comments were received on the NPR.

II. Final Action

EPA is approving HAR 11-60.1-90 ("Permit content") and elements of the Hawaii Pb Infrastructure SIP. EPA is approving the Hawaii Pb Infrastructure SIP with respect to the following requirements:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.
- Section 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new stationary sources (minor New Source Review (NSR) program only).
- Section 110(a)(2)(D)(i)(I): Interstate transport (significant contribution and interference with maintenance).
- Section 110(a)(2)(D)(i)(II) (in part): Interstate transport (visibility protection only).
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies.
- Section 110(a)(2)(F): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J) (in part): Public notification.
- Section 110(a)(2)(K): Air quality modeling and submission of modeling data.

- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

As explained in our October 23, 2013 proposed rule and related TSD, we previously found the Hawaii Pb Infrastructure SIP incomplete with respect to the PSD-related requirements of section 110(a)(2). Under CAA section 110(k)(1)(C), where EPA determines that a portion of a SIP submission is incomplete, "the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof)." Accordingly, we are not acting on the Hawaii Pb Infrastructure SIP with respect to the PSD-related requirements in Sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J).

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves certain state laws as meeting federal requirements; this action does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999); is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: March 14, 2014.

Jared Blumenfeld,
Regional Administrator,
Region IX

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart M — Hawaii

2. In § 52.620,

a. The table in paragraph (c) is amended by adding an entry for "11-60.1-90" after the entry for "11-60.1-84"; and

b. The table in paragraph (e) is amended by adding an entry for "Hawaii State Implementation Plan Revision for 2008 Lead National Ambient Air Quality Standard, Clean Air Act Section 110(a)(1) & (2), excluding attachment 6, and appendices A, B, C, and F" after the entry for "State Implementation Plan Revision, Clean Air Act Section 110(a)(2), 1997 Ozone National Ambient Air Quality Standard and 1997 and 2006 PM_{2.5} National Ambient Air Quality Standards".

The amendments read as follows:

§ 52.620 Identification of plan.

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(c) * * *

EPA-APPROVED STATE OF HAWAII REGULATIONS

State citation	Title/subject	Effective Date	EPA approval date	Explanation
*	*	*	*	*
11-60.1-90	Permit content	9/15/01	[Insert <u>Federal Register</u> page number where the document begins and insert date of <u>FR</u> publication]	Newly added to the Hawaii SIP. Submitted on February 13, 2013.
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(e) * * *

EPA APPROVED HAWAII NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	*
Hawaii State Implementation Plan Revision	Statewide	2/13/13	[Insert <u>Federal Register</u>	Approved SIP revision excludes attachment 6

for 2008 Lead National Ambient Air Quality Standard, Clean Air Act Section 110(a)(1) & (2), excluding attachment 6, and appendices A, B, C, F			<p>page number where the document begins and insert date of FR publication]</p> <p>("Summary of Public Participation Proceedings"), appendix A ("Hawaii Revised Statutes Chapter 342A, Air Pollution Control"), appendix B ("Hawaii Revised Statutes Chapter 84, Standards of Conduct"), appendix C ("Hawaii Administrative Rules Chapter 11-60.1, Air Pollution Control"), and appendix F ("Approval and Public Participation Proceedings from the Most Recent Amendment and Public Comment for HAR 11-60.1-90: September 15, 2001 version"). The statutory provisions in appendices A and B were previously approved and are listed separately in the table under paragraph (e). EPA-approved regulations contained in appendix C are listed separately in the table</p>
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				under paragraph (c). This action addresses the following CAA elements or portions thereof for the 2008 Pb NAAQS: 110(a)(2)(A), (B), (C), (D)(i)(I), (E), (F), (G), (H), (J), (K), (L), and (M).		
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[FR Doc. 2014-07565 Filed 04/04/2014 at 8:45 am; Publication
Date: 04/07/2014]